



Whyte Hirschboeck Dudek S.C.

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July 1, 2011

**VIA EMAIL ryczek.william@epa.gov
AND U.S. MAIL (CERTIFIED)**

U.S. Environmental Protection Agency
William Ryczek
Enforcement Services Section #1, SE-5J
77 West Jackson Boulevard
Chicago, IL 60604-3590

Re: Your letter of June 20, 2011 regarding request for information concerning 4132
N. Holton Street, Milwaukee, Wisconsin

Dear Mr. Ryczek:

I am in receipt of your letter dated June 20, 2011 addressed to "Frederick Schroeder Estate, c/o Philip J. Halley." I write in response because you sent the letter to my attention and it is my intention to be cooperative. Please note that, in addition, my colleague Nathan Fishbach and I attempted to call you on Friday concerning this matter, but you were not in. I am sending this letter today to be timely in responding, but as noted at the end of this letter, we would welcome the opportunity to meet to discuss this matter.

Please be advised that there is not in existence now, nor has there ever been, an entity known as "Frederick Schroeder Estate." Mr. Schroeder died on [REDACTED] 2008 at the age of 99. His Will was filed with the Circuit Court of Sheboygan County, Wisconsin on March 20, 2008. No probate proceedings were commenced and no personal representative was appointed. Hence, there is no Frederick Schroeder Estate to respond and no court-appointed representative to respond on its behalf.

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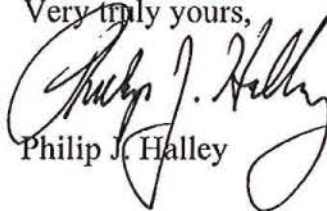
I also wish to bring to your attention certain provisions of the Wisconsin Statutes that are pertinent to any further request you might consider making. Wisconsin Statutes Section 859.48 places a one-year outer deadline on claims filed against a decedent's estate. Wisconsin Statutes Section 706.065 likewise places a one-year outer deadline on claims filed against a trust created by a decedent where the trustee had the authority to pay debts of the decedent.

In this regard, we bring to your attention the court's decision in *Witco Corp. v. Beekhuis*, 38 F.3d 682 (3d Cir. 1994), in which the court observed "Long-standing precedent recognizes that federal claims against decedents' estates are subject to state probate laws and procedures, unless federal law specifically provides otherwise." *Id.* at 689. The same opinion goes on to state "Nothing in the language of CERCLA suggests that Congress intended to preempt state law governing claims against decedents' estates. Section 9613(f) of CERCLA authorizes contribution actions against 'any ... person who is liable or potentially liable under Section 9607(a)....' 42 U.S.C. Sec. 9613(f) (1988)." *Id.* We are aware of no modifications to CERCLA since the above court decision was rendered that "specifically provides otherwise."

Obviously, we want to preserve all objections, and the issue of time bar is a threshold matter which we need to address. We would welcome the opportunity to meet with you in person to discuss this matter.

Thank you for your consideration.

Very truly yours,


Philip J. Halley

PJH/cas

cc: Nathan A. Fishbach

State law on Trust that
claims are time barred - 706.065